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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,265	06/14/2007	Astrid Netz	057977-139333 (7353USO1)	6095
89399	7590	09/26/2011	EXAMINER	
Lisa Mueller / Abbott c/o Michael Best Friedrich LLP Two Prudential Plaza 180 N. Stetson Avenue Chicago, IL 60601			POWERS, FIONA	
			ART UNIT	PAPER NUMBER
			1626	
			NOTIFICATION DATE	DELIVERY MODE
			09/26/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chiipdocket@michaelbest.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,265	<b>Applicant(s)</b> NETZ ET AL.	
	<b>Examiner</b> FIONA T. POWERS	<b>Art Unit</b> 1626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 5) ☒ Claim(s) 1-11 and 13-22 is/are pending in the application.
- 5a) Of the above claim(s) 14-22 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1 to 11 and 13 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                          |

### DETAILED ACTION

Claims 1 to 11 and 13 to 22 are pending in the application.


#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 25, 2011 has been entered.

#### ***Election/Restrictions***

Applicants elected Group I (claims 1 to 11 and 13) drawn to compounds of the Formula I where Q is thiazolyl (i.e. Q is Q1 where E is S) and W is W1 of the



formula  and pharmaceutical compositions thereof in the response filed June 25, 2010.

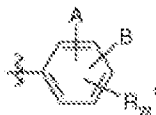
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Claims 14 to 22 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 25, 2010.

### ***Scope of Search***

The elected Group I has been searched in its entirety.

**Group I:** Compounds of the Formula I where Q is thiazolyl (i.e. Q is Q1 where E



is S) and W is W1 of the formula **W1** and pharmaceutical compositions thereof

### ***Claim Objections***

Claims 1 to 11 and 13 are objected to because of the following informalities: the claims contain non-elected subject matter. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:


A person shall be entitled to a patent unless –

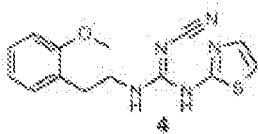
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 to 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogberg et al. (Bioorganic & Medicinal Chemistry Letters, 10(3), 265-268, 2000), cited.

The reference discloses the claimed compounds of instant Formula I wherein Q is thiazolyl i.e. Q is Q1 where E is S; one of R<sup>4</sup> and R<sup>5</sup> is chosen from group 1) hydrogen and the other of R<sup>4</sup> and R<sup>5</sup> is chosen from group 1) hydrogen; R<sup>1</sup> and R<sup>2</sup> are



hydrogen; R<sup>3</sup> is CN; Z is –CH<sub>2</sub>CH<sub>2</sub>–; and W is W1 of the formula  where A is –OMe and B and R<sub>w</sub><sup>1</sup> are hydrogen and pharmaceutical compositions thereof. Note Compound 4 of Table 1 on page 266 which is shown below:



***Response to Arguments***

The rejection of the claims under 35 U.S.C. 102(b) presented in the previous Office action is withdrawn due to Applicants amendment of the claims.

The application is not in condition for allowance since the claims are rejected under 35 U.S.C. 102(b) over newly cited prior art to Hogberg et al.

***Allowable Subject Matter***

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FIONA T. POWERS whose telephone number is (571)272-0702. The examiner can normally be reached on Mon - Thurs 6:15 am - 2:45 pm (in the office) and Fri 7:00 am - 5:30 pm (telework day).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FIONA T POWERS/  
Primary Examiner, Art Unit 1626

ftp  
September 19, 2011